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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,487	12/13/2001	Eugen Schwarz	MERCK 2330	1803

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EXAMINER	
RINEHART, KENNETH	
ART UNIT	PAPER NUMBER
3749	8

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/009,487	SCHWARZ ET AL.	
	Examiner	Art Unit	
	Kenneth B Rinehart	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) *1-9 and 18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-13* is/are rejected.

7)☒ Claim(s) *14-17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

Applicant's election with traverse of Group II in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the examiner has not established that examining all of the claimed features in the application would constitute a serious burden. This is not found persuasive because this conclusory statement does not provide a reasons upon which the applicant relies for his or conclusion that the search would not be a serious burden.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-9 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract is not a single paragraph on a separate sheet. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pisecky et al. Pisecky et al shows a spray drying unit (3, fig. 1), a fluidized bed (6, fig. 1), one or more additional spray or atomization nozzles for liquid media (8, fig. 1), a powder metering device (fig. 3, 4 and 5), a powder return with fan (20, fan at left end of 20, fig. 1), liquid media (4, fig. 1), spray air (20, fig.1), pulverent material (20, fig. 1), and hot air (1, fig. 1), are combined in the spray drying unit (3, fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pisecky et al in view of Getler et al. Pisecky et al discloses a spray drying unit (3, fig. 1), a fluidized bed (6, fig. 1), one or more additional spray or atomization nozzles for liquid media (8, fig. 1), a powder metering device (fig. 3, 4 and 5), a powder return with fan (20, fan at left end of 20, fig. 1), liquid media (4, fig. 1), spray air (20, fig.1), pulverent material (20, fig. 1), and hot air (1, fig. 1), are combined in the spray drying unit (3, fig. 1). Pisecky et al discloses applicant's invention

substantially as claimed with the exception of a spray drying unit is located vertically above a downstream fluidized bed in a spray tower. Getler et al teaches a spray drying unit is located vertically above a downstream fluidized bed in a spray tower (6, fig. 1) for the purpose of providing a more compact design. It would have been obvious to one of ordinary skill in the art to modify Pisecky et al by including a spray drying unit is located vertically above a downstream fluidized bed in a spray tower as taught by Getler et al for the purpose of providing a more compact design to reduce manufacturing costs.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al in view of Hansen. Shaffer et al shows a spray drying unit (26, fig. 2), a fluidized bed (24, fig. 2), one or more additional spray or atomization nozzles for liquid media (22, fig. 2), a powder metering device (38, fig.1), a powder return (15, 48, fig. 1), one or more additional spray or atomization nozzles can be installed in the fluidized bed at variable locations (22, fig. 2), liquid media (29, fig. 1), spray air (30, fig.1), pulverent material (19, fig. 1), and hot air (31, fig. 1), are combined in the spray drying unit (26, fig. 2), a spray drying unit is located vertically above a downstream fluidized bed in a spray tower (22, fig. 2). Shaffer discloses applicant's invention substantially as claimed with the exception of with fan. Hansen teaches with fan (left of item 12, fig. 1) for the purpose of providing a force to move the material. It would have been obvious to one of ordinary skill in the art to modify Shaffer et al by including with fan as taught by Hansen for the purpose of providing a force to move the material so that the apparatus can operate.

Allowable Subject Matter

Claims 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of art with respect to Driers in general: Snaper (6,536,133), Hansen (6,253,463), Hording et al (5,695,614), Ettie et al (5,556,274), Morris (2,921,383), Luy et al (5,632,102), Maesaka et al (5,294,298).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 703-308-1722. The examiner can normally be reached on 7:30-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-308-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

kbr
August 10, 2003

Kenneth Rinehart

Patent Examiner

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